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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,778	07/01/2004	Petr Kvita	HF/5-22603/A/PCT	8508

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EXAMINER

KHAN, AMINA S

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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02/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/500,778	Applicant(s) KVITA ET AL.	
	Examiner AMINA KHAN	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7,11-14 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7,11-14 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to applicant's amendments filed on October 16, 2008.
2. Claims 1,2,4,5,7,11-14 and 17-20 are pending. Claims 3,6,8-10,15 and 16 have been cancelled. Claims 1,14 and 17-19 have been amended.
3. Claims 1,2,4,5,7,11,13,14 and 17-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Kuzmenka et al. (US 6,627,591) for the reasons set forth in the previous office action.
4. Claims 1,2,4,5,7,11,13,14 and 17-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Eskuchen et al. (WO 01/81529) and in view of Kuzmenka et al. (US 6,627,591) for the reasons set forth in the previous office action.
5. Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Kuzmenka et al. (US 6,627,591) and further in view of Panandiker et al. (US 6,156,722) for the reasons set forth in the previous office action.

6. Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Eskuchen et al. (WO 01/81529) and Kuzmenka et al. (US 6,627,591) and further in view of Panandiker et al. (US 6,156,722) for the reasons set forth in the previous office action.

Response to Arguments

7. Applicant's arguments filed regarding Bettiol in view of Kuzmenka or in view of Eskuchen et al. (WO 01/81529) and Kuzmenka et al. (US 6,627,591) and further in view of Panandiker et al. have been fully considered but they are not persuasive. Applicant's declaration under rule 132 filed on 10/16/08 is not sufficient to overcome the rejections of record. The showing of unexpected results is not commensurate in scope with the instant claims or the teachings of the prior art because the declaration only provides data for a single species of dye fixative, carrier, water, a few additives and only at one concentration range and not the entire range taught in the claims. Furthermore, the Bettiol et al. teach several additives, binders, carriers, surfactants, peroxides at a variety of ranges. Kuzmenka also teach Sandofix SWE employed up to 90% (column 3, lines 20-60) and Bettiol teach dye fixatives up to 10% (column 27, lines 5-65). Accordingly, the rejections are maintained.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMINA KHAN whose telephone number is (571)272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/
Primary Examiner, Art Unit 1796

/Amina Khan/

Examiner, Art Unit 1796

January 29, 2009